



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Matthew T. Sanderson  
Caplin & Drysdale Chartered  
One Thomas Circle, NW Suite 1100  
Washington, DC 20005

APR 07 2017

RE: MURs 7020 and 7021

Dear Mr. Sanderson:

On March 3, 2016, and March 14, 2016, the Federal Election Commission ("Commission") notified your clients, Paul Raymond Babeu, Paul Babeu for Congress and Chris Marston, in his official capacity as treasurer, and Timothy La Sota, in his official capacity as treasurer, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On March 28, 2017, based upon the information contained in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on March 28, 2017.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). A copy of the dispositive General Counsel's report is enclosed for your information.

If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson  
Acting General Counsel

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

170444-1-21080

BEFORE THE FEDERAL ELECTION COMMISSION

2017 FEB 27 PM 2:18

ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT

MURs: 7020/7021

Complaint Receipt Dates:

February 29, 2016 and March 9, 2016

Response Date: May 2, 2016

Respondents: Paul Babeu for Congress, A  
and Chris Marston, as treasurer  
(collectively the "Committee")<sup>1</sup>  
Paul Raymond Babeu

EPS Rating: [REDACTED]

Alleged Statutory/  
Regulatory Violations:

52 U.S.C. §§ 30101(2)(A), (B); 30102(e)(1)  
11 C.F.R. §§ 100.3(a)(1), (2); 101.1(a)

The Complaints allege that Paul Babeu failed to timely file his Statement of Candidacy. Specifically, the complainants claim that Paul Babeu announced his candidacy on October 5, 2015, but did not register with the Commission or designate an authorized campaign committee until January 31, 2016. The Complaints also allege that the Committee filed a Statement of Organization on October 5, 2015, naming Babeu as a candidate for Arizona's First Congressional District, changed that designation to the Fourth District on an amended Statement of Organization filed on January 28, 2016, and changed that designation back to the First District in another amended Statement of Organization filed on February 10, 2016.

Respondents admit that the original Statement of Candidacy was untimely and that both the Statements of Candidacy and Organization listed the wrong congressional district.<sup>2</sup> Respondents

<sup>1</sup> Paul Babeu was a candidate for the U.S. House of Representatives in the First Congressional District of Arizona. Babeu lost in the general election on November 8, 2016.

<sup>2</sup> A person becomes a candidate when, *inter alia*, he or she has received contributions or made expenditures aggregating in excess of \$5,000. 52 U.S.C. § 30101(2)(A); 11 C.F.R. § 100.3(a)(1), (2). The Committee's disclosure reports indicate that it may have crossed the contributions threshold as early as October 6, 2015, and may have crossed the \$5,000 expenditures threshold as early as October 21, 2015. See Paul Babeu for Congress 2015 Year-End Report of Receipts and Disbursements, filed January 31, 2016. As such, when Babeu filed a Statement of Candidacy for the 2016 election on January 31, 2016, it may have been 117 days late (using the contribution date to trigger a potential filing requirement). The Committee concedes that it took steps to correct "any and all problems," after they were discovered in January 2016. It is difficult to pinpoint an exact date based on the Committee's reports. The Commission's Reports Analysis Division ("RAD") does not have a policy to try to determine the exact date a Statement of Candidacy would be due based on disclosure reports. Therefore, in cases in which the Statement of Candidacy was filed simultaneously with

17044412587

state, however, that the Committee timely filed its Statement of Organization and all disclosure reports, and they argue that Babeu's filings and public statements put the public on notice he was running for Congress. Finally, Respondents state they have amended their statements to show the correct district.<sup>3</sup>

17044412588  
Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the Committee's corrective actions, and the fact that Babeu's untimely Statement of Candidacy did not cause the Committee to miss filing a required quarterly report, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

---

the disclosure report covering the same reporting period when the candidate appeared to cross the \$5,000 threshold, RAD would not take further action, such as sending a Request for Additional Information to the Committee.

<sup>3</sup> The Committee attributed any errors to its former legal counsel.

Lisa J. Stevenson  
Acting General Counsel

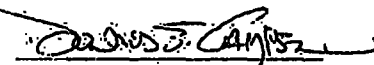
Kathleen M. Guith  
Associate General Counsel

2.27.17  
Date

BY:

  
Stephen Gura  
Deputy Associate General Counsel

  
Jeff S. Jordan  
Assistant General Counsel

  
Donald E. Campbell  
Attorney

170344-144400-1